

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**TONY SMITH,**

**PLAINTIFF**

**V.**

**NO. 4:04CV107-P-A**

**MISSISSIPPI DEPARTMENT OF CORRECTIONS, ET AL,**

**DEFENDANTS**

**ORDER OVERRULING OBJECTIONS and ADOPTING REPORT AND  
RECOMMENDATION**

The *pro se* plaintiff, an inmate in custody of the Mississippi State Penitentiary at Parchman, alleges in this § 1983 complaint that the defendants failed to provide proper medical care for a broken arm, refused to treat him in retaliation for prior claims that he had filed, improperly collected money from his inmate account for medical co-payments, and failed to properly process a medical profile. Magistrate Judge S. Allan Alexander conducted a hearing in this matter on October 20, 2005, pursuant to *Spears v. McCotter*, 766 F.2d 179 (5<sup>th</sup> Cir. 1985). Judge Alexander filed a Report and Recommendation on October 28, 2005, recommending as follows: that the Mississippi Department of Corrections, Dr. Bill Steiger, Superintendent Mike Wilson, and Commissioner Christopher Epps be dismissed as defendants; that the claim relating to improper deduction of money from plaintiff's inmate account be dismissed; and that the remaining claims be allowed to proceed. Plaintiff on November 10, 2005, and November 15, 2005, filed objections to the Report and Recommendation.

The court finds that plaintiff's argument is not well-taken and that the objections should be overruled for the reasons stated in the Report and Recommendation, which the court approves and adopts.

THEREFORE, it is hereby ORDERED that

1) the plaintiff's objections to the Report and Recommendation of the United States Magistrate Judge are OVERRULED;

2) the Report and Recommendation is APPROVED and ADOPTED;

3) the claim dealing with improper deductions of funds from plaintiff's inmate account is DISMISSED;

4) Dr. Bill Steiger, Superintendent Mike Wilson, Commissioner Christopher Epps, and the Mississippi Department of Corrections are DISMISSED as defendants;

5) the claim dealing with failure to provide adequate medical care against Dr. John Bearry and Dr. Touchstone will PROCEED;

6) the claim dealing with improper processing of a medical profile against Dr. Santos will PROCEED; and

7) the claim of retaliation against Emergency Medical Technician Harmon will PROCEED.

SO ORDERED, this the 29<sup>th</sup> day of November 2005.

/s/ W. Allen Pepper, Jr.  
W. ALLEN PEPPER, JR.  
UNITED STATES DISTRICT JUDGE